

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

Adoption of Chapter 3-128  
Hawaii Administrative Rules

November 7, 1995

SUMMARY

Chapter 128 of Title 3, Hawaii Administrative Rules, entitled "Governmental Relations and Cooperative Purchasing", is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 3

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

SUBTITLE 11

PROCUREMENT POLICY BOARD

CHAPTER 128

GOVERNMENTAL RELATIONS AND COOPERATIVE PURCHASING

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§3-128-2	Cooperative purchasing subject to chapter 103D, HRS
§3-128-3	Cooperative purchasing agreements between public procurement units
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§3-128-6	Supply of personnel, information, and technical services
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§3-128-8	Compliance with federal requirement

§3-128-1 Definitions. As used in this chapter, unless the context requires otherwise:

"Cooperative purchasing" means procurement conducted by, or on behalf of, more than one public or nonprofit private procurement unit, or by a public procurement unit with an external procurement activity.

"External procurement activity" means any buying organization not located in this State which, if located in this State, would qualify as a public

procurement unit. An agency of the United States is an external procurement activity.

"Local public procurement unit" means any county of the State, or public agency of any county, public

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authority, educational, health, or other institution, and to the extent provided by law, any other entity which expends public funds for the procurement of goods, services, and construction.

"Nonprofit private procurement unit" means a health or human services organization of the State that provides services to the public and expends private funds for the procurement of goods, services, and construction through cooperative purchasing agreements with the State.

"Public procurement unit" means either a local public procurement unit or a state public procurement unit.

"State public procurement unit" means the office of the chief procurement officer and any other purchasing agency of this State. [Eff DEC 15 1995 ] (Auth: HRS §103D-202) (Imp: HRS §103D-801)

§3-128-2 Cooperative purchasing subject to chapter 103D, HRS. Procurement by cooperative purchasing agreements shall be done in compliance with the requirements of chapter 103D, HRS, and title 3, subtitle 11, HAR. [Eff DEC 15 1995 ] (Auth: HRS §103D-202) (Imp: HRS §103D-802)

§3-128-3 Cooperative purchasing agreements between public procurement units. Any cooperative purchasing agreement between a State public procurement unit and a local public procurement unit for requirements or open-ended purposes, where the exact amount of goods or services to be obtained cannot be determined with certainty at the outset, shall provide that:

- (1) The requirements for any good or service shall be obtained by the participating public procurement units through the placement of

- purchase orders in accordance with the terms and conditions of the agreement;
- (2) Payment for any goods or services obtained through purchase order shall be the exclusive responsibility of the public procurement unit which placed the order;
  - (3) Inspection and acceptance of any goods or services obtained through purchase order shall be the exclusive obligation of the public procurement unit which placed the

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- order;
- (4) The exercise of any warranty rights attached to any good or service obtained through a purchase order shall be the exclusive right of the public procurement unit which placed the order; and
  - (5) Failure of a public procurement unit to comply with the terms and conditions of a cooperative purchasing agreement shall not result in a breach or termination of that agreement, nor shall it preclude the remaining public procurement units from obtaining goods and services under that agreement. [Eff DEC 15 1995 ] (Auth: HRS §103D-202) (Imp: HRS §§103D-802, 103D-803)

§3-128-4 Public notice of cooperative purchasing agreements between public procurement units and external procurement activities. The public procurement unit shall place a notice of the solicitation within the State pursuant to section 3-122-24. [Eff DEC 15 1995 ] (Auth: HRS §103D-202) (Imp: HRS §§103D-802, 103D-803)

§3-128-5 Cooperative purchasing agreements between public procurement units and nonprofit private procurement units. (a) A public procurement unit may enter into a cooperative purchasing agreement with a nonprofit private procurement unit if:

- (1) The nonprofit private procurement unit is under a purchase of services contract with the State, pursuant to chapter 42D, HRS;
  - (2) The nonprofit private procurement unit submits an application to enter into a cooperative purchasing agreement with a public procurement unit and receives approval from the chief procurement officer. A form shall be developed by the chief procurement officer for this purpose;
  - (3) Participation is limited to purchases from requirements contracts pursuant to section 3-121-6(c); and
  - (4) The chief procurement officer approves the cooperative purchasing agreement.
- (b) The chief procurement officer may charge a nominal fee for participation by a nonprofit

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organization. [Eff DEC 15 1995 ] (Auth: HRS §103D-202) (Imp: HRS §103D-802)

§3-128-6 Supply of personnel information and technical services. Requests to one public procurement unit by another public procurement unit, or an external procurement activity to provide or make available personnel, services, information, or technical services pursuant to section 103D-806, HRS, shall be complied with only to the extent that the chief procurement officer determines that it is practicable to do so. [Eff DEC 15 1995 ] (Auth: HRS §103D-202) (Imp: HRS §103D-806)

§3-128-7 Procurement of goods produced or services performed by governmental institutions. Goods produced or services by programs such as Ho'opono workshop, correctional industries, or other governmental institutions may be obtained through cooperative purchasing agreements. The agreements made with other governmental agencies may be done without public solicitation. [Eff DEC 15 1995 ] (Auth: HRS §103D-202) (Imp: HRS §103D-803)

§3-128-8 Compliance with federal requirement.  
Any procurement which involves the expenditure of  
federal assistance or contract monies, shall comply  
with applicable federal law and regulations.  
[Eff DEC 15 1995 ] (Auth: HRS §103D-202) (Imp: HRS  
§103D-102)

#### DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

Chapter 3-128, Hawaii Administrative Rules, on the  
Summary Page dated November 7, 1995, was adopted on  
November 7, 1995, following a public hearing held on  
September 21, 1995 in Kailua-Kona, Hawaii; September  
22, 1995 in Hilo, Hawaii; September 26, 1995 in  
Honolulu, Hawaii; October 10, 1995 in Wailuku, Maui;  
and on October 20, 1995 in Lihue, Kauai, after public  
notice was given in the Hawaii Tribune-Herald, West  
Hawaii Today, The Maui News, and The Garden Island on  
August 21, 1995, and in The Honolulu Advertiser on  
August 22, 1995.

The adoption of chapter 3-128 shall take effect  
ten days after filing with the Office of the Lieutenant  
Governor.

Haruo Shigezawa  
Chairperson  
Procurement Policy Board

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Sam Callejo  
State Comptroller

APPROVED:

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Benjamin J. Cayetano  
Governor  
State of Hawaii

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

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Deputy Attorney General

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Filed